

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

FILED BY *JBN* D.C.

05 AUG 23 PM 3:32

W.M. BARR AND COMPANY, INC.,
Plaintiff and Counter-Defendant,

v.

DYNACRAFT INDUSTRIES, INC.,
d/b/a BACK TO NATURE PRODUCTS CO.,
Defendant and Counter-Plaintiff

No. 05-2219-D-V

JURY DEMANDED

THOMAS M. COULD
CLERK U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

THOMAS M. COULD
CLERK U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

05 DEC 29 AM 7:29

FILED BY *[Signature]* D.C.

MOTION AND SUPPORTING MEMORANDUM FOR LEAVE
TO FILE REPLY TO DEFENDANT'S RESPONSE TO BARR'S
MOTION TO DISMISS

COMES NOW Plaintiff and Counter-Defendant W.M. Barr and Company, Inc. ("Barr") and respectfully moves the Court for leave to file a Reply to Defendant's Response to Barr's Motion to Dismiss Defendant's Abuse of Process Counterclaim, and in support of this Motion avers to the Court as follows:

On July 11, 2005, Barr filed a motion seeking to dismiss the abuse of process counterclaim brought by Defendant. Defendant submitted a Response to the Motion to Dismiss on or about August 15, wherein it seeks to modify the basis for its counterclaim. Barr respectfully requests leave to file a Reply to respond briefly to the new argument made by Defendant and to respond to Defendants' incorrect interpretation of *Givens v. Mullikin*, 75 S.W.3d 383 (Tenn. 2002) upon which Barr bases its Motion to Dismiss. (The proposed Reply is attached as Exhibit A.)

This document entered on the docket sheet in compliance with Rule 58 and/or 79(a) FRCP on 12/29/05

MOTION GRANTED

DATE: 12-23-2005

[Signature]

BERNICE BOUIE DONALD
U.S. DISTRICT JUDGE

(21)



Notice of Distribution

This notice confirms a copy of the document docketed as number 21 in case 2:05-CV-02219 was distributed by fax, mail, or direct printing on December 29, 2005 to the parties listed.

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Honorable Bernice Donald
US DISTRICT COURT